

Title 18, Public Revenue
Sales and Use Tax, Regulations 1807 and 1828
Process for Reviewing Local Tax Reallocation Inquiries.
Petitions for Reallocation of Local Tax;
Process for Reviewing Transactions and Use Tax Distribution Inquiries
Petitions for Distribution or Redistribution of Transactions and Use Tax

FINAL STATEMENT OF REASONS
Overview/Non-Controlling Summary

Update

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

Specific Purpose

The purpose of the proposed amendments is to interpret, and make specific Revenue and Taxation Code sections 1807, *Process for Reviewing Local Tax Reallocation Inquiries*, and 1828, *Process for Reviewing Transactions and Use Tax Distribution*. The proposed regulations are necessary in order to streamline the appeals process for reviewing petitions for local tax reallocations and transition and use tax redistributions by eliminating two unneeded levels of review. The proposed revisions would also notify a jurisdiction of a decision that substantially affects it and allow that jurisdiction to also appeal to the next level within the same administrative proceeding.

Factual Basis

Sales and Use Tax Regulation 1807 provides the process for reviewing requests by local jurisdictions for investigation of suspected misallocation of local taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The process for reviewing appeals of distributions of taxes imposed under the Transactions and Use Tax Law (commonly called “district taxes”) is explained in Regulation 1828, which was adopted in March 2004, based in large part on Regulation 1807. Regulations 1807 and 1828 currently provide for five levels of review. The proposed amendments, allowing for three levels of review, will provide for a more comprehensive process for review of petitions for local tax reallocation; restructure the request for extension process; and provide notification of substantially affected jurisdictions at an earlier level in order that a single process will resolve disputes.

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization finds that the adoption of these proposed regulations will not have a significant adverse economic impact on private businesses or persons. The regulations are proposed to interpret, implement, and make specific the authorizing statutes. These changes will clarify the interpretation or administration of the sales and use tax laws. Therefore, the Board has determined that these

changes will not have a significant adverse economic impact on private businesses or persons.

Local Mandate Determination

The Board has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

Response to Public Comment

On May 28, 2008, the State Board of Equalization held a public hearing on proposed amendments to Sales and Use Tax Regulations 1807, *Petitions for Reallocation of Local Tax* and 1828, *Petitions for Distribution or Redistribution of Transaction and Use Tax*. Prior to the hearing, the Board received two written submissions relating to the proposed regulations.

The first letter, dated May 22, 2008 was from Daniel Carrigg, Legislative Director of the League of California Cities and the second, dated May 27, 2008, was from David McPherson, Deputy Director for the City of San Jose. Both letters supported the proposed regulations as written.

In addition to the letters, Al Koch, General Counsel, Muni Services, made pre-hearing oral representations to board staff that a typo needed to be corrected on the “Initial Statement of Reasons” concerning the proposed regulations. The typo is found under the heading “Specific Purpose”, wherein the first word of the fifth line is improperly stated as “transition” rather than “transaction”

During the course of the May 28, 2008 hearing, the following commentators made presentations: Fran Mancia, Director of Government Relations, MuniServices; Dan Carrigg, Legislative Director, League of CA Cities; Matt Hiderliter, Audit Manager, HDL; Al Koch, General Counsel, MuniServices, LLC; Bob Cendejas, Attorney, Cendejas & Associates and Dave McPherson, Deputy Finance Director, City of San Jose. All of the comments were in support of the proposed regulations with no suggested changes.

The regulations were adopted by the Board at the May 28, 2008 meeting, Chief Counsel Matter’s calendar.

Small Business Impact

The State Board of Equalization has determined that the adoption of the amendments to Regulations 1807 and 1828 will have no significant statewide adverse economic impact directly affecting small business.

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.
The amendments to the regulations as proposed will not be detrimental to California business in competing with businesses in other states.

The proposed regulations may affect small business.

Cost Impact on Private Person or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs

No significant effect.

Federal Regulations

Regulations 1807 and 1828 and the proposed changes have no comparable federal regulations.

Alternatives Considered

By its motion, the Board determined no alternative to promulgating the regulations would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the adopted regulations.

Authority

Section 7051, Revenue and Taxation Code

Reference

Sections 7209, 7223 and 7270, Revenue and Taxation Code.